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RHODE ISLAND AND THE IMPOST OF 1781.

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XIX.—RHODE ISLAND AND THE IMPOST OF 1781.

By Frank Greene Bates, of Cornell University.

At the close of the year 1780 affairs in America were in so critical a condition that it seemed as if the extremity was at hand. There was still but the germ of a constitutional union. Congress was helpless. Demands on the States for money had almost ceased to be of avail. Credit was at low ebb. The Army was suffering from the lack of pay, provisions, and clothing. Mutiny pervaded the air. Heroic measures were necessary. "If we mean to continue our struggle," said Washington, "we must do it upon an entire new plan. Ample powers must be lodged in Congress, as the head of the Federal Union, adequate to all the purposes of war."[1] Again, "There can be no radical cure till Congress is vested by the States with full and ample powers to enact laws for general purposes."[2] Only then would ruinous delays cease. As a step toward greater efficiency Congress, on February 3, 1781, recommended that they be vested with power to lay a duty of 5 per cent on all goods, with a few exceptions, imported from foreign lands, and a like duty on all prizes condemned in the admiralty courts."[3] New Hampshire soon granted the request, and before the summer of 1782 she was followed by all the States except Rhode Island and Georgia.

Here is the point at which Rhode Island departed from that hearty acquiescence which she had given to every act tending to united resistance to oppression or to the prosecution of the war. From the date of her first official protest against the navigation laws in June, 1764, in the stamp-act congress, in nonimportation agreements, in committees of correspondence,

[1] Ford's Washington, IX, 13.
[2] Ib., IX, 125.
[3] Journal of Congress, III, 572.

and in the adoption of the Articles of Confederation, that State was found following closely the example of Massachusetts and Virginia. In the official demand for a Continental Congress, and in renouncing allegiance to Britain, she was the very first of the thirteen colonies to act. Now, in 1781, she hesitated. For the cause must be sought some new element entering into the case. Heretofore Congress had had the direction of the war, of foreign relations, and of the common interests of the States. Now the General Government proposed to enter the State with authority and there collect for its own use a tax. The Articles of Confederation expressly declared the States sovereign and independent. With that understanding Rhode Island had ratified them. In the proposed measure there was an intrusion on the Rhode Island idea of State sovereignty; an idea expressed in the instructions to her delegates, given in May, 1776, "to secure to this colony, in the strongest and most perfect manner, its present established form and all the powers of government so far as relate to its internal police and conduct of our own affairs, civil and religious."[1]

This is the mainspring of the State's action in 1781 and in the succeeding years to 1790. The full import of the idea is exhibited in the discussion which followed through weary months. For eight months Rhode Island remained silent on the vital question. But if the men who remained at home saw the world about them only through the exaggerated perspective of provincialism, the Delegates in Congress saw aright. Varnum and Mowry wrote home from Congress in August, 1781: "We are at a loss to conjecture the rumors which have induced the State of Rhode Island to delay complying with the requisition of Congress."[2] In October Governor Greene announced that the State was unable to determine the advisability of the measure, and would await the action of the other States.[3]

Thus the matter rested until General Varnum returned home near the close of the year to exert his influence in behalf of the impost. In a series of articles published in the Providence Gazette he demonstrated the desirability of a stable revenue, and developed his theory of a strong nationality.[4]

[1] Rhode Island Colonial Records, VII, 526.
[2] Letters 1781–82, No. 3.
[3] Rhode Island Colonial Records, IX, 485.
[4] Providence Gazette, March 9–16, 1782.

"Were we to contemplate the United States separately," he writes, "as composing thirteen distinct sovereignties, unconnected with and independent of each other, the requisition in question would appear totally absurd and ridiculous. This, however, is not the case."[1] The utterance of such rank heresy called forth in opposition a champion in the person of David Howell. In a series of letters Howell advanced the arguments of his party, which may fairly be taken as the sentiment of the masses in the State.[2] He compared the impost to the stamp act, and gainsaid that Congress ever claimed power over the purse of the people. He relied on the Articles of Confederation for proof of the State's sovereignty, and absolutely denied that there was any inherent sovereignty in Congress. The plan proposed would work harm to the commercial States. "Indeed," said he, "it is against the welfare of any commercial State to clog and embarrass trade with any restrictions or duties whatever."[3] But if duties were necessary let Rhode Island lay her own. On the assumption that import duties are borne by the importer, it was argued that when taxes were levied under the Articles of Confederation, Rhode Island paid one-fiftieth of the whole amount, but under the proposed system, granting that she possessed one twenty-fifth of the total shipping, she would pay one twenty-fifth of the tax. Should customs officers be introduced from without there would be no means of controlling them. The funds collected would be turned into the general Treasury, where the taxpayer could not observe their disbursement. If there was any benefit to be derived from the power to lay duties, the State should retain it, for the inland States in their turn would not surrender their peculiar privileges. The grant was considered further to be too indefinite. The time was not specified and the grant was irrevocable. In short, Rhode Island admitted her duty to pay her quota of taxes, but only according to the Articles of Confederation. She considered it the most precious jewel of sovereignty that no State be called on to open its purse but by authority of the State and by her own officers.

Here the controversy rested. The Fabian policy of the opposition had kept the measure out of the assembly. The first result was the retirement of Varnum and Mowry and the elec-

[1] Providence Gazette, March 9–16, 1782.
[2] Ib., March 23–April 13, 1782.
[3] Ib., March 30, 1782.

tion of Delegates less favorable to the impost. These were John Collins, the future paper-money governor, General Cornell, Jonathan Arnold, and, most notable of all, David Howell. The latter was instructed to proceed to Congress, where he soon had occasion once more to defend the position of his party, this time before a Congressional committee. At the request of a committee appointed to inquire why Georgia and Rhode Island had not granted the impost, Howell appeared before them to defend his State. As in his newspaper writings he had spoken to his neighbors, so now he spoke to the whole country. His objections as now expressed were four:

(1) The proposed system tended to raise a revenue for the use of the General Government and not of the State. This would be paid by the merchants, and should they be unable to obtain a correspondingly higher price for their goods, they would be crushed out of existence. Such a burden would rest more heavily on Rhode Island than any other State, from the preponderance of the mercantile and manufacturing classes and her inability to produce agricultural products sufficient for her own markets.

(2) Rhode Island had suffered heavily from the ravages of war. Newport, which in 1774 sent out 150 sail, now sent out but 3. To compensate for her losses the State should retain the power of levying duties. More especially should this be done in self-defense, so long as the large States persisted in claiming western lands.

(3) It would be derogatory to the sovereignty of a State to permit foreign officers within her boundaries collecting a revenue for some outside authority. All revenue in the State, said he, should be collected by her own officers and stand to her own credit.

(4) The terms of the grant were too indefinite. Though the intentions of the present Congress were honorable, their successors, by keeping the national debt outstanding, might perpetuate the impost. The States would be powerless to prevent it.

In closing, Howell suggested two amendments. These were: (1) That each State retain the appointment of the collectors. (2) That the revenue collected in each State be credited to the account of that State. By such changes the presence of outside officers would be dispensed with, and Rhode Island would be the gainer from the position which she expected

again to assume in the commercial world.[1] To neutralize such arguments Morris sent an urgent appeal to Governor Greene, but in vain.[2]

Tiring of delay, Congress, on October 10, 1782, demanded an immediate and definite answer to the proposition.[3] With the question now forced upon the Assembly Howell, writing to Theodore Foster, said:

> The crisis has arrived. * * * It is an important step. * * * I hope those who have undertaken to contend for the liberties of their country and retain the zeal of 1775 will [display] it on this important occasion. * * * I hope every exertion will be made on the occasion by the friends of liberty and free trade. * * * Should it be adopted, I shall no longer consider myself the representative of a sovereign and free State, but wish to be recalled. * * * This is but an entering wedge; others will follow—a land tax, a poll tax, and an excise.[4]

In a last appeal to the assembly the Delegates rehearse to that body the old arguments, and in their extremity declare that to grant this perpetual power was to abridge the rights of future assemblies.[5]

The legislature met on the last Monday in October, and on November 1 reached a vote on the impost. Of the whole number (68), 53 were present. The vote was unanimously against the measure. Speaker Bradford communicated this result to Congress in a letter, giving three reasons for rejection.[6] These were: (1) It would be unequal in operation, bearing most heavily on the commercial States. (2) It proposed to introduce into the State officers unknown and unaccountable to the State government, and hence unconstitutional. (3) As the grant was indefinite in time, it would tend to make Congress independent, and would be dangerous to the liberties of the States. At the same time he hastened to assure Congress of the State's willingness to bear its share of the burdens of the Government. Anticipating the storm that would arise in Congress, instructions were sent to the Delegates—

> To vindicate and support with a becoming firmness on all occasions such of the acts of the general assembly of this State as respect the United States at large, and to use their utmost exertions to prevent any infringement being made on the sovereignty and independence thereof.[7]

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[1] Letters, 1781–82, July 30, 1782.

[2] Letters, 1782–83, No. 1, August 2, 1782.

[3] Journal of Congress, IV, 86.

[4] Foster Corr., I. 20.

[5] Letters, 1782–83, Nos. 22 and 23, October 13–15, 1782.

[6] Ib. No. 38.

[7] Acts and Resolves, MS., November 2, 1782.

The response of Rhode Island was a new departure. No other State, however much it had hampered its grant, had refused outright. Even before the news of its fate arrived, the conviction that the impost would be rejected was so strong that a committee was appointed to visit Rhode Island and urge the necessity of the measure.[1] Notwithstanding the arrival of Bradford's letter, the committee set out on December 22, but was recalled on the same day by intelligence that Virginia had repealed her grant.[2]

Early in the month it had been seen that the only hope of winning over Rhode Island lay in crushing Howell's influence there. A pretext for an attack on him was found in certain writings on the foreign loans which appeared in the newspapers. These were pronounced derogatory to the character of the United States and the honor of Congress, as well as detrimental to the financial interests of the nation.[3] The Secretary of Foreign Affairs was directed to write to the governor of Rhode Island to learn the author, but Howell having acknowledged the authorship, it was moved that the Secretary be discharged from these instructions, "Mr. Howell, a Delegate from the State of Rhode Island, having acknowledged himself the author of the extract of the letter quoted in the report of the committee."[4] Howell at once moved to postpone this motion, which placed his name on the journal in such a connection, to consider a similar motion, accompanied by a formal acknowledgment of the writings with his justification. He denied the authority of Congress over his correspondence with his State officials, and maintained the truth of his statements. The original motion prevailed, followed by another, that whereas Congress had admitted on their Journal an entry of a motion by Mr. Howell highly derogatory to the honor and dignity of Congress, a committee be appointed to determine what measures should be taken thereon.[5] Accordingly the Secretary of Foreign Affairs was directed to transmit Howell's motion, together with a statement of the foreign loans, to the executive of Rhode Island, with a view to prove the falsity of the writings.[6] But when, two weeks later, Arnold moved to forward

[1] Journal of Congress, IV, 115; Madison Papers, I, 225.
[2] Madison Papers, I, 238, 495; Journal of Congress, IV, 126.
[3] Journal of Congress, IV, 114.
[4] Ib., IV, 120; Madison Papers, I, 223.
[5] Journal of Congress, IV, 122.
[6] Ib., IV, 122–123.

to the State executive certain letters substantiating Howell's statements the motion was postponed. That the circumstance might not be used by Howell in justification of his action, the proceedings were placed on the secret journals.[1] This occasioned no little vexation in Congress. It was irregular, and adopted only in the last extremity. That this attack on Howell was made to break down his influence at home is abundantly proved.[2] Madison says the "unanimous suspicions were fixed on Mr. Howell." It was thought that the exposure of the author of the writings "would destroy in his State that influence which he exerted in misleading its counsels in regard to the impost."[3]

The Rhode Island champion was the ultra state rights member of the Continental Congress. Holding extreme opinions, and forced often to maintain them against great odds, he sometimes overstepped the bounds of parliamentary courtesy and practiced an obstruction policy no less vigorous than has been pursued in our national Capitol in more recent years. Of his sincerity and singleness of purpose there is ample proof in his own writings and those of his colleague, Dr. Arnold. The latter says:

> It appears to have been his first and only wish to serve his country generally, and especially his constituents, with unshaken fidelity. * * * He clearly understood the Articles of Confederation, and distinguished between the rights relinquished by the separate States and those retained.[4]

When the contest was at an end, the Assembly, at its session in February, 1783, adopted resolutions approving the conduct of their Delegates. The resolutions expressed their appreciation of "the meritorious services rendered to this State and to the cause of freedom in general by the firmness and patriotic conduct of the said Delegates, particularly in their strenuous exertions to defeat the operation of measures which this State considered as dangerous to the public liberty."[5] The attack on the Rhode Island Delegate had failed. The impost was lost.

In reviewing Rhode Island's action on the impost the motives may be reduced to three: (1) A misunderstanding of the effects of an impost duty. (2) Anxiety respecting the disposal of the western lands. (3) An extraordinary jealousy of

[1] Secret Journal of Congress, I, 248–249.
[2] Letters, 1782–83, No. 47, January 8, 1783.
[3] Madison Papers, I, 223.
[4] Letters, 1782–83, No. 34, December 6, 1782.
[5] Acts and Resolves, MS., February, 1783.

yielding to outside authority any power over her internal affairs. In relation to an impost Rhode Island stood in a peculiar position. She was the only small State in which commerce and manufactures predominated. No State was so dependent on her neighbors for agricultural produce. To build up the former commerce of the State was the dream of the new race of merchants. Free trade was to be the foster mother of their enterprise. But should a duty be levied it must be paid by the importer. He might or might not be able to add this to the price of his goods. In case it was added, the neighboring States would probably raise correspondingly the price of produce. The proceeds from the duty, instead of remaining in the State to balance this enhanced price, would be withdrawn for the use of the National Government. Should the neighboring States be provoked to lay an embargo against her, the State would be in a sorry plight.

The attitude of Rhode Island toward the public domain was similar to that of New Jersey, in that she did not contend for national jurisdiction over the territory.[1] She simply demanded that the proceeds from the sale of such lands should accrue to the benefit of the general Treasury. From the first discussions of the subject did her Delegates strive, as by their instructions they were directed "to contend earnestly for this State's proportion of vacant or back lands."[2] Filled with this solution of the nation's finances Rhode Island refused to yield her peculiar advantages until she was assured of a fair share of the proceeds of this great domain.

The founders of the State represented the extreme of individualism and the trait strongly marked their descendants. Civil and religious liberty was granted by the charter of 1663 to a degree heretofore unknown and handed down the generations as a precious heirloom. The colony's first century had been a struggle against oppression. From Plymouth, from Massachusetts, from Connecticut, even from all combined, had come persecutors of her citizens and claimants to her territory. As a sovereign State she hastened to resist British oppression. But the century of controversy with her neighbors could not fail to leave its scar, even after the wound had healed, and now when the first step was taken toward transferring to the

[1] Journal of Congress, II, 605.

[2] Acts and Resolves, MS., November 2, 1782.

General Government any power over the local affairs of the State, she halted and refused to advance. In defeating the impost of 1781 Rhode Island was victorious. But by her act she began that course of opposition which, misunderstood by our historians, is to this day flung at her as a reproach—a course which ended only after a vital struggle in 1790.

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